

REMARKS

[0001] Applicant respectfully requests entry of the following remarks and reconsideration of the subject application. Applicant respectfully requests entry of the amendments herein. The remarks and amendments should be entered under 37 C.F.R. §1.116 as they place the application in better form for appeal, or for resolution on the merits.

[0002] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1, 3-12, 15-24, and 53-63 are presently pending. Claims 1, 12, 15-17, and 19 are amended herein; claims 2, 13, and 14 are cancelled herein; and no new claims are added herein.

Formal Request for an Interview

[0003] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0004] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

Claim Amendments and Additions

[0005] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 12, 15-17, and 19 herein.

Substantive Matters

Claim Rejections under § 112

[0006] The Examiner rejects claims 1-23 and 53-63 under § 112, 1st ¶, as failing to comply with the enablement requirement. In particular, the Examiner continues to maintain that the term "focusable" is not defined in the specification is not a term that is well-known to those skilled in the art. Applicant traverses this rejection.

[0007] In the Response to the Final Office Action Date 10/27/06, Applicant submitted additional evidence that an element being able to receive the "focus" (thus, a "focusable" element) is well-known to those skilled in the art. The evidence submitted included excerpts from "VISUAL BASIC 6 WEEKEND CRASH COURSE", by Richard Mansfield, copyright 2000".

[0008] In the Response to Arguments (Office Action, page 11), the Examiner states that, "the existence of the term "focus" in a document for a single program is not enough to prove that the specification is exclusively enabled for that definition." Applicant submits that the "single program", "Visual Basic 6", was, at the time of filing, a very well-known application for developing

graphical user interface applications. Furthermore, while the specification may not include a succinct textual definition of the term "focusable", each of the examples provided in the specification are clearly supported by, and not contrary to, the cited portions of the Visual Basic reference. Furthermore, each description and example provided in the Specification was written based on the concept of the term "focus" as presented in the Visual Basic reference, and Applicant submits that one skilled in the art at the time of filing would have been familiar with the term "focus" as presented in the Visual Basic reference. Accordingly, Applicant asks the Examiner to withdraw this rejection.

Claim Rejections under §§ 102 and/or 103

[0009] The Examiner rejects claims 1-15, 20, 21, 23, 24, 53-55, 57, 58, 62, and 63 under §102. For the reasons set forth below, the Examiner has not shown that cited references anticipate the rejected claims.

[0010] In addition, the Examiner rejects claims 16 and 59-61 under §103. For the reasons set forth below, the Examiner has not made a prima facie case showing that the rejected claims are obvious.

[0011] Accordingly, Applicant respectfully requests that the §102 and §103 rejections be withdrawn and the case be passed along to issuance.

[0012] The Examiner's rejections are based upon the following references alone and/or in combination:

- **Dutta:** *Dutta et al.*, US Patent Application No. 2002/0152283 (published October 17, 2002);

- **MCD:** Microsoft Computer Dictionary, Fifth Edition (published 2002); and
- **Jacobs:** *Jacobs et al.*, US Patent Number 6,819,961 (filed December 12, 2002).

Overview of the Application

[0013] The Application describes a technology for providing access to alternate content in documents rendered using an interactive television viewing system. A browser or other rendering engine that supports access to alternate content determines which elements in the document may receive focus, based on whether or not an accessibility mode is active. When an accessibility mode is active, the list of focusable elements may contain elements that, by default, are not focusable elements, but that have associated alternate content. An icon or other demarcation, either audio or visual, can be used to indicate to the user whether or not an accessibility mode is active. Furthermore, an input device, such as a television remote control can be configured to provide a mechanism for activating and deactivating an accessibility mode. (*Application, Summary.*)

[0014] The Application further notes that some hypertext markup language (HTML) browser applications written for use on computer systems include functionality for accessing alternate content, but typically rely on pointing devices, such as a mouse. Unfortunately, interactive television systems generally support user interaction through a television remote control and do not include a pointing device. As such, interactive television systems lack a mechanism for

allowing viewers to access alternate content in HTML documents. (*Application*, paragraph [0002].)

[0015] As illustrated in Figure 1, the Application is clearly directed to a system that does not include a pointing device, such as a mouse. Paragraph [0017] states, "navigation is performed by a user using directional inputs by pressing arrow buttons 114 of remote control 108, arrow keys or other inputs associated with handheld device 110, or arrow keys 116 of keyboard 112." Paragraph [0017] further states, "pressing a 'select' button on remote control 108 while a button associated with an HTML document has the focus, causes the browser to perform the functionality associated with the button."

Cited References

[0016] The Examiner cites Dutta as the primary reference in the anticipation- and obviousness-based rejections. The Examiner cites MCD and Jacobs as secondary references in the obviousness-based rejections.

Dutta

[0017] Dutta describes a technology for providing access to alternate formats within an electronic document. A web page is parsed and a document object model (DOM) is created, and the alternate format attribute of an image element within the DOM is parsed. The browser then displays the web page containing an image (or images) according to the default settings of the browser. A user interface is specified which allows the user to select alternate formats for

the default image. This user interface may be in the form of a pop up menu that is presented to the user in response to an input command, such as a right mouse click on the default image. The user can then select an alternate format which replaces the original image in the web page. (*Dutta, Abstract.*)

Anticipation Rejections

[0018] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.¹ Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.²

Based upon Smith

[0019] The Examiner rejects claims 1-15, 20; 21, 23, 24, 53-55, 57, 58, 62, and 63 under 35 U.S.C. § 102(b) as being anticipated by Dutta. Applicant respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant respectfully requests that the Examiner withdraw the rejection of these claims.

Independent Claim 1

[0020] Claim 1 has been amended, rendering the rejection of claim 1 moot. As amended, claim 1 includes language that clarifies the meaning of several terms used in the claim. In particular, as amended, claim 1 recites, "a focus indicator that indicates, at any given time, a single element of focus, that is the default recipient of user input from a non-pointer input device," which is not disclosed by Dutta.

¹ "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

² See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

[0021] Consequently, Dutta does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 2, 13, and 14

Claims 2, 13, and 14 are cancelled herein, as shown above, rendering the rejection of these claims moot.

Dependent Claims 3-12, 15, 20, 21, and 23

[0022] These claims ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Independent Claims 24 and 53

[0023] In the Office Action dated 06/26/06, the Examiner provided a rejection of claims 24 and 53. In the Response, Applicant argued against the Examiner's rejection. In the subsequent Office Action dated 10/27/06, the **Examiner indicates that the Applicant's arguments regarding claims 24 and 53 have been considered but are moot in view of the new grounds of rejection.** (Office Action of 10/27/06, page 12.) **However,** as pointed out

in the subsequent response, **the Examiner provided no new grounds of rejection with respect to claim 24 or 53.**

[0024] The Examiner has continued to ignore Applicant's arguments with regard to claims 24 and 53, and has continued to provide the same rejection, verbatim, as previously presented. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claims 24 and 53, provide new grounds of rejection, or adequately respond to Applicant's previously submitted arguments. Also, because the Examiner has failed to respond to previously submitted arguments, Applicant submits that the next Office Action, if not a Notice of Allowance, is expected to be Non Final.

Dependent Claim 54

[0025] Claim 54 depends upon independent claim 53. As discussed above, claim 53 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Independent Claims 55 and 57

[0026] As previously presented, Dutta does not describe modifying a list of focusable elements associated with a document.

[0027] Consequently, Dutta does not disclose all of the claimed elements and features of these claims. Accordingly, Applicant asks the Examiner to withdraw the rejection of these claims.

Dependent Claims 58, 62, and 63

[0028] These claims ultimately depend upon independent claim 57. As discussed above, claim 57 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Obviousness Rejections

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0029] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

Based upon Dutta and MCD

[0030] The Examiner rejects claims 16 and 59-61 under 35 U.S.C. § 103(a) as being unpatentable over Dutta in view of MCD. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

[0031] Claims 16 and 59-61 ultimately depend, respectively, upon independent claims 1 and 57. As discussed above, claims 1 and 57 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Based upon Dutta and Jacobs

[0032] The Examiner rejects claims 17-19 and 56 under 35 U.S.C. § 103(a) as being unpatentable over Dutta in view of MCD. Applicant respectfully

traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

[0033] Claims 17-19 and 56 ultimately depend, respectively, upon independent claims 1 and 55. As discussed above, claims 1 and 55 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Based upon Dutta

[0034] The Examiner rejects claim 22 under 35 U.S.C. § 103(a) as being unpatentable over Dutta. Applicant respectfully traverses the rejection of this claim and asks the Examiner to withdraw the rejection of this claim.

[0035] Claim 22 ultimately depends upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, claim 22 may also be allowable for additional independent reasons.

Dependent Claims

[0036] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0037] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

Dated: 10/26/07

By: Kayla D. Brant
Kayla D. Brant
Reg. No. 46576
(509) 324-9256 x242
Kayla@leehayes.com
www.leehayes.com

My Assistant: Carly Bokarica
(509) 324-9256 x264
carly@leehayes.com